

SURREBUTTAL TESTIMONY AND EXHIBIT OF
DR. JOHN C. RUOFF
ON BEHALF OF
THE SOUTH CAROLINA OFFICE OF REGULATORY STAFF
DOCKET NO. 2018-318-E
IN RE: APPLICATION OF DUKE ENERGY PROGRESS, LLC
FOR ADJUSTMENTS IN ELECTRIC RATE SCHEDULES AND TARIFFS
AND REQUEST FOR AN ACCOUNTING ORDER

Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND OCCUPATION.

A. My name is Dr. John C. Ruoff. My business address is 6170 Crabtree Road, Columbia, South Carolina 29206. I am Principal and Owner of The Ruoff Group.

Q. PLEASE SUMMARIZE YOUR EDUCATIONAL BACKGROUND AND PROFESSIONAL EXPERIENCE.

A. I earned a Ph.D. in History at the University of Illinois at Urbana-Champaign, awarded in 1976 to go with an M.A. from Illinois (1971) and a B.A. from Seattle University (1969). For forty years I have engaged in policy analysis and advocacy on energy and utility issues in South Carolina, including participating as a *pro se* intervenor in rate and rulemaking proceedings before this Commission from 1979 through 2002 regarding electricity, gas, telecommunications and transit. From 1979 to 1987, I was employed by Fairfield United Action to organize and advocate around a broad set of community issues, including licensing of V.C. Summer Unit 1 and South Carolina Electric & Gas Company rate increases. I represented consumer interests on a broad range of issues before the South

Carolina General Assembly from 1987 to 2011 for South Carolina Fair Share with a particular emphasis on low-income consumers. A significant portion of that work related to regulatory policy for electric and gas and telecommunications utilities. I continue to engage in legislative and stakeholder processes on behalf of AARP South Carolina and S.C. Appleseed Legal Justice Center. I have appeared numerous times as an expert in state and federal courts, testifying on statistical analyses, social and economic matters, demography, household economics, Southern history, Southern politics, elections, redistricting and voting rights.

Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA?

A. Yes. I have testified before this Commission on public interest pay telephones (Docket No. 2003-358-C). I am a witness in Duke Energy Carolina's rate case Docket 2018-319-E. In February 2019, I presented an Allowable Ex-Parte Briefing to the Commission in Docket 2018-319-E on the Effects of the Proposed Rate Adjustment on Consumers. I presented to the Commission in 1997 as it prepared *Proposed Electric Restructuring Implementation Process* report (Feb. 3, 1998) to the General Assembly. My curriculum vitae is attached as Surrebuttal Exhibit JCR-1.

Q. WHAT IS THE PURPOSE OF YOUR SURREBUTTAL TESTIMONY IN THIS PROCEEDING?

A. The South Carolina Office of Regulatory Staff ("ORS") requested that my surrebuttal testimony address the impact to the customer if the positions outlined in the rebuttal testimony of Duke Energy Progress, LLC ("DEP" or "Company") were to be adopted by this Commission. The Company's rebuttal testimony asserts it is entitled to cost

recovery in excess of a level reasonable to support safe, reliable and high-quality utility service. As DEP witnesses state in rebuttal testimony, the Company's actions seek to reduce regulatory lag. However, the Company proposes to shift the Company's risk to its customers as a result.

Q. IN YOUR OPINION, WHAT IS THE IMPORTANT ROLE OF THE COMMISSION IN THIS RATE PROCEEDING?

A. From the Commission's perspective, a rate case is not just an exercise in deciding accounting adjustments, but about balancing interests between customers and the Company and its shareholders. For many years in South Carolina, ORS shared that responsibility, but in 2018 the General Assembly removed from ORS responsibility for the financial viability of the Company and economic development and job retention. That leaves the Commission to that important balancing act. Much of that balancing turns upon deciding who should bear the risks of those decisions.

Q. PLEASE IDENTIFY THE AREAS IN THE COMPANY'S REBUTTAL TESTIMONY THAT FOCUSES ON THE SHIFT OF RISK TO CUSTOMERS.

A. Much of the rebuttal testimony submitted by the Company focuses on issues that entail shifting risk from itself onto customers. For example, Company President Gharthey-Tagoe's Rebuttal Testimony addresses: financing deferred costs (p. 7), disallowance of certain approaches to employee compensation (pp. 8-9,15), tripling the Basic Facilities Charge (pp. 9, 15-17), treatment of deferred balances (p. 12) and Return on Equity (pp. 12-13).

Q. PLEASE EXPLAIN THE IMPACT ON CUSTOMERS WHEN THE RISK IS SHIFTED FROM THE COMPANY TO THE CUSTOMER.

1 **A.** Let me focus on the Basic Facilities Charge increase that has been a subject of
2 contention both in direct and rebuttal testimony in this case and in the 226 letters submitted
3 by customers to the Commission. Company witness Wheeler largely portrays the increase
4 as intended “to reflect full cost recovery of the customer component identified in the unit
5 cost study” and “to minimize subsidization of customers within the rate class.” (Wheeler
6 Rebuttal Testimony, pp. 3-4.). In other words, it’s simply an intra-class shift from high
7 users to low users. However, front-loading customer costs also shifts the revenue risks of
8 lowered load growth, improved weatherization and efficiencies in heating and air
9 conditioning and appliances, distributed generation expansion, and battery storage
10 expansion from the Company onto customers.

11 Company witness Gharthey-Tagoe suggests that this shift mostly affects “low usage
12 customers, such as people with vacation homes or people with second homes elsewhere in
13 the state of South Carolina.” (Rebuttal Testimony, p. 16.) However, DEC witness Wheeler
14 presents clear evidence in his chart “# of DEP Low Income Bills by Usage Level
15 (Household Income < \$30,000),” that most low-income customers, including low-income
16 seniors and renters, are low usage customers. (Rebuttal Testimony, p. 6). All of the efforts
17 to minimize the share of low-income customers who are low use customers is belied by
18 simply looking at Wheeler’s chart. The majority falls below the 1,214 monthly average
19 kWh usage.

20 This risk shift falls on all but the higher use customers, but most heavily on low-
21 income customers—those who are least able to afford this increase and for whom the
22 increase most threatens their ability to:

23 1) Pay rent or mortgages in decent, safe and affordable housing;

- 2) Ensure that those homes are not dark, cold or hot, even life-threateningly so;
- 3) Buy sufficient, healthy food;
- 4) Afford and maintain reliable transportation; and
- 5) Pay for all needed prescriptions and health care.

Even the alternate approach offered by Company Witness Wheeler in response to the controversy around the Basic Facilities Charge, which more than doubles that charge to \$19.03 (Rebuttal Testimony, p. 10.), mitigates, but far from eliminates the harm to low-income customers. Here, the balancing of risks and of fairness calls on the Commission to lower the risks shifted to low usage, especially low-income, customers.

Q. DOES THIS CONCLUDE YOUR SURREBUTTAL TESTIMONY?

A. Yes, it does.

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CURRICULUM VITAE

JOHN C. RUOFF
BUSINESS ADDRESS:

March 2019

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 Columbia, South Carolina 29206
 803-782-5401

EDUCATION

Ph.D. (History), University of Illinois at Urbana-Champaign, 1976

Research specialty: social and cultural history of the 19th Century American South with special emphasis on women, the family, demography and the religious basis of behavior. Dissertation: "Southern Womanhood, 1865 - 1920: An Intellectual and Cultural Study."

A.M. (History), University of Illinois at Urbana-Champaign, 1971

B.A. (History), Seattle (WA) University, 1969

EMPLOYMENT

2011 – present: The Ruoff Group. Principal. Provides nonprofit organizations, governmental entities and attorneys with a broad range of research. Those have included studies of income, poverty, housing, health care access and affordability, legislative voting, employment, pay telephones, transportation, occupational discipline, elections, taxes, public budgeting, household economics, energy and utilities. The Ruoff Group brings experience in quantitative research methods.

1987 - 2011: South Carolina Fair Share. Responsibilities included research and policy analysis and lobbying the South Carolina General Assembly. Issue areas included utility regulation, consumer finance, health care access and affordability, tax policies, budget, consumer protections, insurance (both health coverage and property & casualty), torts, food and nutrition, child welfare, family assistance and housing. (Executive Director, 1987-1995; Interim Executive Director, 2000-2001, 2008-2009; Research Director, 1995-2009; Program Director, 2009-2011).

1995 - 2011: Independent consultant. Provide expert statistical and demographic analyses especially with respect to elections and voting systems. Provide policy analysis with respect to state budgets and taxes and health care.

1980 - 1986: Fairfield United Action. Staff member of community organization. Responsible for research on issues affecting community with a special emphasis on utility costs and regulation. Staff Director, 1982 - 1986.

1979 - 1986: Independent consultant. Consultations with a variety of non-profit organizations with financial management, long-range planning and priority setting, evaluation, board development, grant writing and fundraising, and organizational development, as well as statistics and demography and community history.

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1979 - Palmetto Legal Services, Columbia, SC. Management consultant with additional responsibility for statistical research in support of litigation.

1978 - 1979: South Carolina Legal Services Coalition. Training Coordinator. Responsible for training needs assessment, training design and implementation.

1975 - 1978: Illinois Conference, American Association of University Professors, Urbana, IL. Executive Secretary.

CONSULTANCIES AND EXPERT TESTIMONY

Assisted community groups, council members, school boards, county councils, legislators and special redistricting committees to prepare and evaluate districting proposals in South Carolina.

Okadigwe v. SC Bd. of Pharmacy, South Carolina Administrative Law Court, 2016-AJ-11-0230-AP, 2016. Analysis of pharmacist discipline. Expert affidavit.

Richland County School District 1, 2015-2016. Advised School Commissioners on redistricting of single-member districts. Prepared districting alternative plan adopted by the S.C. General Assembly.

Fraser et al. v Jasper County School Dist. et al., United States District Court for the District of South Carolina, CA14-2578, 2014-2015. Expert consultant. Assisted counsel for Defendant-Intervenor by analyzing and preparing proposed districting plans.

City of Walterboro et al. v. Pinckney et al., United States District Court for the District of South Carolina, CA14-3231, 2014. Expert consultant. Advised counsel for defendant on redistricting practices.

Veasey et al. v. Abbot et al., United States District Court for the Southern District of Texas, CA13-193, 2013-2014. Expert consultant. Assisted counsel for Veasey Plaintiffs by providing demographic and voting analyses and advising on database matching.

Robinson et al. v. SC Dept. of Employment and Workforce, 2nd Judicial Circuit of South Carolina, 2013-CP-06-059, 2013-2016. Economic impact on families of missing unemployment insurance (UI) payments. Expert report and testimony.

South Carolina v. United States, United States District Court for the District of Columbia. CA12-203, 2012. Expert consultant. Assisted counsel for Defendant-Intervenors with database preparation, preparation of exhibit maps reflecting public transit systems in South Carolina, guidance on legislative procedure and other research tasks.

Richland County Sales Tax Referendum Appeal by Michael Letts, S.C. Elections Commission. Advised counsel for Richland County Council on election analyses, 2012.

Fairfield County School District v. Chester County School District, et al., 5th Judicial Circuit of South Carolina, 2010-CP-40-4017, 2011-12. Expert consultant. Assist counsel by mapping Fairfield students attending Chester schools and analyzing tax and budget issues related to the litigation.

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Report on racially disparate effects of 2011 S.C. Act 27 (Photo Voter Identification) for use in submissions to Voting Rights Section, Department of Justice, regarding preclearance consideration, 2011-12.

South Carolina House of Representatives Democratic Caucus, 2011. Assist counsel in preparation and evaluation of House and Congressional redistricting plans.

South Carolina Senate Democratic Caucus, 2011. Assist counsel in preparation and evaluation of Senate and Congressional redistricting plans.

Board of Trustees of School District of Fairfield County v. State of South Carolina et al. Op. No. 27035 South Carolina Supreme Court (29 August 2011) 2010. Analysis of votes on veto overrides of local legislation, 1903-2010, relied upon by S.C. Supreme Court in its decision.

Analyses of elections and electoral participation for use in submissions to Voting Rights Section, Department of Justice, regarding preclearance consideration of 2010 S.C. Acts 308 and 309, on behalf of Fairfield County (South Carolina) Board of School Trustees, 2010.

Levy et al. v. Lexington County, South Carolina, School District Three et al. United States District Court for the District of South Carolina, 2004 - 2012. Racial polarization in voting, electoral mobilization, proposed districting maps and socio-economic disparities in income, education, employment, housing, communications and transportation. Expert reports and testimony.

Glover et al. v. S.C. Democratic Party et al., United States District Court for the District of South Carolina, 2004. Racial polarization in voting, electoral mobilization and socio-economic disparities in income, education, employment, housing, communications and transportation. Expert report and testimony.

Proceeding to Address Public Interest Pay Telephones in S.C., South Carolina Public Service Commission, Docket No. 2003-358-C, 2004 - 2005. Need for public pay phones in South Carolina. Telephone availability and spatial relationship of pay phones and low-income persons. Expert testimony.

Colleton County Council et al. v. McConnell et al.; Leatherman et al. v. McConnell et al.; and Marcharia et al. v. Hodges et al., United States District Court for the District of South Carolina, 2001-2002. Racial polarization in voting, electoral mobilization and evaluation of proposed districting plans for United States Congress, South Carolina Senate and South Carolina House of Representatives. Expert report and testimony.

South Carolina Conference of Branches, NAACP. Retained to assist branches with evaluating and proposing districting plan for local jurisdictions. 2001 – 2005, 2011 – 2013.

South Carolina Legislative Black Caucus. Provide technical assistance with respect to reapportionment especially regarding the South Carolina House of Representatives. 2001.

Moultrie v. Charleston County Council and United States v. Charleston County, United States District Court for the District of South Carolina, 2000-2003. Racial polarization in voting, socio-economic disparities, electoral mobilization and proposed districting maps. Expert report and testimony.

Edisto Surgery Center v. S.C. Dept. of Health and Environmental Control and The Regional Medical Center of

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Orangeburg and Calhoun Counties, South Carolina Administrative Law Judge Division, 1998. Analysis and evaluation of surgery utilization data and evaluation of public opinion poll. Expert report and testimony.

Smith, et al. v. Beasley, et al. and ***Able, et al. v. Wilkins, et al.***, United States District Court for the District of South Carolina, 1995 - 1996. Racial polarization in voting, differential voter participation, and socio-economic disparities in income, education, employment, housing, communications and transportation in challenged South Carolina House of Representatives and Senate districts. Expert report and testimony.

NAACP, et al. v. Truitt, et al., United States District Court for the District of South Carolina, 1995 - 1997. Racial polarization in voting in Florence School District 1. Prepare proposed redistricting maps. Expert report and testimony.

Franklin, et al. v. Campbell, et al. and ***NAACP, et al. v. Town of Hemingway, et al.***, United States District Court for the District of South Carolina, 1994. Prepare demographic and voting analyses with respect to attempted secession from one county and annexation to another on behalf of Williamsburg County School Board. Expert affidavit.

Richland County (South Carolina) Council, 1994, 1996-1997. Prepare demographic and voting analyses regarding preclearance filing with Justice Department under Voting Rights Act for County Council districts.

NAACP, et al. v. Spartanburg County Board of Education, et al., United States District Court for the District of South Carolina, 1992 - 1993. Analyze proposed districting proposals and prepare alternative proposals for Spartanburg County Board of Education, Spartanburg School District 5 and Spartanburg School District 7.

NAACP, et al. v. Holly Hill Town Council, et al., United States District Court for the District of South Carolina, 1992. Analyze proposed districting proposals and prepare alternative proposal. Expert testimony.

NAACP, et al. v. Kershaw County, South Carolina, et al., United States District Court for the District of South Carolina, 1990 - 1993. Racial polarization in voting, differential voter registration and turnout, and disparities in income, housing, employment, education, communications and transportation.. Prepare proposed redistricting maps and evaluate proposed plans. Expert reports and testimony.

Prescott, et al. v. Riley, et al., United States District Court for the District of South Carolina, 1992. Prepare proposed redistricting map for City of Charleston and evaluate city proposal.

NAACP, et al. v. Rowan-Salisbury Board of Education and Rowan County Board of Elections, United States District Court for the Middle District of North Carolina, 1992. Racial polarization in voting, differential voter registration and turnout, and lingering effects. Expert report.

NAACP, et al. v. City of Reidsville, et al., United States District Court for the Middle District of North Carolina, 1992. Racial polarization in voting, differential voter registration and turnout, and lingering effects. Expert report.

Burton, et al. v. Sheheen, et al. and ***Statewide Reapportionment Advisory Committee, et al. v. Campbell, et al.***, United States District Court for the District of South Carolina, 1991 - 1995. Prepare proposed district maps for U.S. Congress and South Carolina General Assembly. Monitor legislative process. Expert testimony.

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NAACP, et al. v. Manning (SC) City Council, United States District Court for the District of South Carolina, 1991. Prepare proposed district maps.

NAACP, et al. v. City of Columbia, et al., United States District Court for the District of South Carolina, 1991 - 1993. Socio-economic disparities in income, education, employment, housing, communications and transportation. Prepare proposed district maps. Expert report and testimony.

Charleston County Branch NAACP, et al. v. Charleston (SC) County Council, United States District Court for the District of South Carolina, 1991. Racial polarization in voting, differential voter registration and turnout, and lingering effects. Expert report.

U.S. v. Simmons, United States District Court for the District of South Carolina, 1990. Representativeness of jury venire and racial polarization in voting. Expert testimony.

Walker, et al. v. Fairfield County Council, et al., United States District Court for District of South Carolina, 1989 - 1990. Prepare proposed single-member district lines for plaintiffs.

NAACP, et al. v. City of Lancaster, et al., United States District Court for District of South Carolina, 1989. Racial polarization in voting, differential voter registration and turnout, and lingering effects. Expert report.

NAACP, et al. v. City of Kingstree, et al., United States District Court for District of South Carolina, 1989 - 1991. Racial polarization in voting, differential voter registration and turnout, and lingering effects. Prepare proposed district maps. Expert report.

NAACP, et al. v. City of Gaffney, et al., United States District Court for District of South Carolina, 1989. Racial polarization in voting, differential voter registration and turnout, and lingering effects. Expert report.

NAACP, et al. v. City of Union, et al., United States District Court for District of South Carolina, 1989. Racial polarization in voting, differential voter registration and turnout, and lingering effects. Expert report.

NAACP, et al. v. Town of Saluda, et al., United States District Court for District of South Carolina, 1989. Racial polarization in voting, differential voter registration and turnout, and lingering effects. Expert report.

NAACP, et al. v. South Carolina Democratic Party Executive Committee, et al., United States District Court for District of South Carolina, 1988. Racially differential effects of primary timing on turnout, racial polarization in voting, and socio-economy of South Carolina Senate District 32. Expert report and testimony.

NAACP, et al. v. Richland County Council, et al., United States District Court for District of South Carolina, 1988. Racial polarization in voting. Expert report and testimony.

Blackwater Associates, Columbia, South Carolina, 1988. Analysis of electoral polling data.

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Fairfield United Action, 1986, 1989, 1991 and 1993 conducted statewide analyses of bank mortgage lending patterns in support of challenges to bank expansion under Community Reinvestment Act. Evaluated bank community needs assessments, including public opinion polling.

Smalls, et al. v. Fairfield County Council, et al., United States District Court for District of South Carolina, 1986. Political history, voting and turnout patterns, and socio-economy of Fairfield County, South Carolina. Expert report and testimony.

Fairfield County, South Carolina, 1986, directed, evaluated and certified results to Farmers Home Administration of door to door income survey on behalf of Mid County Water Company and Fairfield County Council.

Fairfield County (South Carolina) School District, 1985 - 1986, consultancy on integrating local history into school curriculum.

Calhoun County (South Carolina) School District, 1985, consultant on local history for SC Committee for the Humanities funded project on children growing up in both Calhoun County and New York City.

U.S. v. Hamilton, United States District Court for the District of South Carolina, 1985. Statistical representativeness of jury venire. Expert testimony.

Waller v. Butkovich, United States District Court for the Middle District of North Carolina, 1984. Statistical representativeness of jury venire. Expert report.

State v. Vanderhall, 6th Judicial Circuit of South Carolina, 1983. Statistical representativeness of Grand Juries. Expert testimony.

State v. Fields, 14th Judicial Circuit of South Carolina, 1979. Statistical representativeness of Grand Juries. Expert testimony.

RELEVANT COMMUNITY ACTIVITIES

AARP Volunteer Advisory Committee, Office of Policy Development and Integration, Member 2018 - present.

AARP, Volunteer Member, National Policy Council, 2012-2018. Vice-Chair, 2017-2018. Chair, Economic, Employment and Low-Income Issues, 2015-2018.

Senior Weatherization Fund, Board Member, 2018 - present.